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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 VICTOR PARRA, JR.,

12 Plaintiff,

13 v.

14 R. HERNANDEZ, et al.,

15 Defendants.

Civil No. 08cv191 H (CAB)

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR ENLARGEMENT OF  
TIME TO EFFECT SERVICE  
[Doc. No. 17.]**

16 Plaintiff Victor Parra, Jr., a state prisoner proceeding *pro se*, has filed a civil rights action  
17 pursuant to 42 U.S.C. § 1983. Plaintiff seeks additional time to complete service as to Defendant A.L.  
18 Cota. Plaintiff has already served the other five defendants. For the reasons set forth below, Plaintiff's  
19 request is **GRANTED**.

20 Plaintiff filed his complaint on January 31, 2008, and on March 13, 2008, the Honorable Marilyn  
21 L. Huff ordered the United States Marshal to effect service of the summons and complaint. On May 7,  
22 2008, the complaint was served on Defendants P. Cowan, R. Hernandez, W. Liles, and R. Limon. On  
23 July 11, 2008, the complaint was served on the California Department of Corrections and Rehabilitation.

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1 Federal Rule of Civil Procedure 4(m) states the following:

2 If service of the summons and complaint is not made upon a defendant within 120 days after  
3 the filing of the complaint, the court, upon motion or on its own initiative after notice to the  
4 plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service  
be effected within a specified time; provided that if the plaintiff shows good cause for the  
failure, the court shall extend the time for service for an appropriate period.

5 Here, the United States Marshal was ordered to effect service of the summons and complaint on  
6 March 13, 2008. Based on that date, the complaint should have been served on Defendant Cota by July  
7 10, 2008. The original attempt at service was returned unexecuted on April 14, 2008, because there was  
8 no employee at R.J. Donovan State Prison with the name "A.L. Cota." [Doc. No. 6.] Plaintiff claims a  
9 second request for service was sent to the United States Marshal on June 1, 2008. [Doc. No. 17 at 2.]  
10 Accordingly, because Plaintiff has demonstrated that he has diligently attempted to effect service on  
11 Defendant Cota, Plaintiff's motion for an extension of time is **GRANTED**. Plaintiff shall serve the  
12 summons and the complaint upon Defendant Cota on or before **September 10, 2008**. However,  
13 pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff is **HEREBY NOTIFIED** that failure to  
14 timely serve Defendant Cota may result in dismissal of the action without prejudice as to Defendant  
15 Cota.

16 **IT IS SO ORDERED.**

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18 DATED: July 14, 2008

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21 **CATHY ANN BENCIVENGO**  
22 United States Magistrate Judge  
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